A bold voice for transportation workers

RIGHT-TO-WORK LAWS DESTROY JOBS AND WAGES

Far too many politicians talk a good game about supporting working people and good jobs, but then simultaneously support policies that hollow out an already shrinking middle class. One of those policies is so-called "Right-to-Work" legislation, part of a deliberate campaign by extremists and parts of the corporate lobby that know exactly what they are doing: crushing the wages, benefits and safety of working Americans.

The legislation (HR 785) that has been recently introduced in the House of Representatives would create a nationwide prohibition against representation fees in private sector collective bargaining agreements. Specifically, unions would be unable to collect representation fees for the workers they are compelled by law to represent. Right-to-work would upend almost 100 years of labor policy, is inherently inconsistent with the mandate that unions represent all workers in a unit, and is specifically designed by its framers to make it more difficult for unions to negotiate contracts on behalf of their members. For workers represented by the Railway Labor Act (RLA or Act), this reform would impose unique legal, policy, and implementation problems that are inconsistent with the Act and represent a grave threat to labor-management relations.

To promote commerce and industrial peace, Congress has established laws regulating unionization and collective bargaining between employers and employees. In the private sector there are two laws that sanction these rights, the RLA and National Labor Relations Act (NLRA). The RLA covers employees of railroads and airlines. The NLRA applies to most other private sector workers. While these frameworks for regulating labor-management relations differ in meaningful ways, both laws reflect Congress' deliberate interest in securing industrial peace through the promotion of union membership and collective bargaining.

Right-to-work laws allow states – or in the case of the proposed legislation, the federal government – to exempt workers represented by unions from having to pay the fees associated with representation. This approach is inherently inconsistent with legal duties imposed by federal labor law upon unions. Specifically, when a majority of workers choose union representation at a worksite or transportation carrier, federal law requires the union to represent all employees at the workplace and to do so equally. In return, workers must pay their fair share for activities that a union, by law, must provide to everyone at the workplace.

This interaction of state right-to-work laws and the federal requirements for exclusive representation creates a tension under which unions are forced by law to represent members who, in turn, do not have to share in the costs of the benefits they receive. This creates a classic "free rider" problem – an arrangement that, by design, places a cost burden on unions and on the remaining members by forcing them to subsidize the expenses necessary to represent everyone else at that job site. The aim of right-to-work proponents is obvious: to weaken the ability of unions to counter belligerent managements, secure good wages and benefits, demand safe workplaces and fair trade, and combat anti-union state and federal policies.

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The legal regime in right-to-work states is similar to a political world in which someone refuses to pay taxes because they disagree with the government but wants to take advantage of the same public roads, public schools, and military security provided by the government without paying the taxes necessary to support those public goods. This is, obviously, an untenable political arrangement that is unfair, un-American and does not represent how our government works.

For the RLA, a nationwide ban on representation fees poses problems unique to the law's history and policy focus. The RLA began as a distinct compact between rail unions and management (airlines were added later) that was meant to produce effective and consensus-based collective bargaining agreements following decades of failed labor-management relations regimes. While the RLA provides for the right to unionization and collective bargaining like the NLRA, the Act includes a unique policy focus on avoiding disruptions to interstate commerce and transportation. This emphasis on ensuring continuity in personal travel and cargo movements lends itself to how union bargaining units are organized, which is on a company-wide basis – a noted distinction from the NLRA's worksite by worksite approach.

The RLA's focus on stability in the rail and aviation sectors extends to its preemption of state right-to-work laws. In 1951 Congress amended the Act to permit unions and carriers to require employees to pay dues and assessment fees to cover the costs associated with collective bargaining. The amendment was an affirmative effort by Congress to deal with the "free rider" problem. Congress determined that the flow of interstate commerce would be best advanced by requiring the payment of appropriate fees for union representation, and that allowing workers to opt-out – as provided by right-to-work laws – would create disharmony and instability. In 1956 the Supreme Court agreed, asserting that requiring appropriate dues payment is a "stabilizing force" for achieving harmonious labor relations and is consistent with Congress' oversight of interstate commerce. In short, the RLA's basis for superseding state right-to-work laws is grounded in statute, affirmed by the Supreme Court, and compelled by the Act's regulation of interstate commerce. That is why the nation's major freight railroads recently came out against including amendments to the RLA as part of right-to-work legislation.

For lawmakers and other policy makers who work with labor unions or support any tenant of collective bargaining, support for national right-to-work legislation is inherently inconsistent with those positions by undoing a basic component of fair representation. Transportation labor takes great pride in working with politicians on both sides of the aisle. But we condemn those who hold office and claim they support collective bargaining and rebuilding the middle class but endorse "right-to-work" legislation. We call on Members of Congress in both parties to reject national "right-to-work" proposals and instead work with us to strengthen collective bargaining and push policies that put more Americans to work in good jobs.

For all union members – including the those under the RLA – right-to-work presents an existential death blow to their legal right to organize and collectively bargain. More importantly, at a time when wages are stagnant, this sinister policy reform would make it even harder for working people to secure decent wages that can support a family. It is incumbent upon all Members of Congress who believe in – or work with labor unions – to reject this scheme to undermine basic labor rights.

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